

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

DANIEL DAXON OWENS
D/B/A BLACK DIAMONDS NIGHTCLUB

PLAINTIFF

VS.

CAUSE NO. 3:16-cv-835 DPJ-FKB

MARTEZE DERALL HARRIS

RESPONDENT

RESPONSE TO NOTICE OF REMOVAL

COMES NOW, Daniel Owens d/b/a Black Diamonds Nightclub, by and through his attorneys of record, and responds to the Notice of Removal file filed by Marteze Derall Harris, as follows:

1. On March 2, 2016, the Court entered a Judgment awarding Marteze Derall Harris (hereinafter sometimes referred to as "Harris") \$60,000.00 as damages in addition to \$1,500.00 previously ordered as sanctions.

2. On September 16, 2016, "Daniel Daxon Owens", individually, and "Daniel Daxon Owens d/b/a Black Diamonds Nightclub" filed for bankruptcy in the United States Bankruptcy Court for the Southern District of Mississippi and was assigned Case Number 16-03061.

3. In complete disregard of the Automatic Stay in Bankruptcy pursuant to 11 U.S.C. §362(a)(1), on October 21, 2016, Harris and his attorney filed a Writ of Execution seeking to enforce the judgment. Pursuant to the Writ, the Sheriff's Department of Hinds County, Mississippi closed the business located at 210 Parcel Drive, Jackson, Mississippi.

4. The petition seeking injunctive relief was filed in the Chancery Court of Hinds County, Mississippi, because Harris and his attorney were ignoring the Automatic Stay causing immediate injury.

5. Now, in this Court, Harris and his attorney admit in Paragraph 2 of his Notice of Removal that “the Bankruptcy Case remains open and pending as of the date of filing of this Notice of Removal.” As Harris and his attorney admit that the bankruptcy case is open, the Automatic Stay remains in place. As such, the issues brought before the chancery court should be transferred through this Court to the bankruptcy court.

WHEREFORE, PREMISES CONSIDERED, Defendant, Daniel Daxon Owens, individually and Daniel Daxon Owens d/b/a Black Diamonds Nightclub, respectfully request that this Court accept the Notice of Removal and transfer the matter to the bankruptcy court, as requested by Harris.

THIS the 27th day of October, 2016.

Respectfully submitted,

DANIEL DAXON OWENS, INDIVIDUALLY,
AND DANIEL DAXON OWENS D/B/A BLACK
DIAMONDS NIGHTCLUB

By: s/H. Byron Carter, III _____

OF COUNSEL:

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CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed the foregoing pleading or other paper with the Clerk of the Court using the CM/ECF system, which should send notification of such filing to the following:

Benjamin H. Wilson, Esq.
B. H. Wilson, PLLC
Post Office Box 2887
Jackson, Mississippi 39207
Ben@bhwilson.com

Further, I hereby certify that I have this date forwarded via U.S. Mail, postage prepaid and properly addressed, a true and correct copy of the above and foregoing to:

No one.

THIS, the 27th day of October, 2016.

By: s/H. Byron Carter, III
OF COUNSEL